

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**BRAULIO BATISTA,**

**Petitioner,**

**v.**

**UNITED STATES OF AMERICA**

**Respondent.**

Civ. No. 2:12-02431 (WJM)

**ORDER**

*Pro se* petitioner Braulio Batista is currently serving a 151 month term of imprisonment in a Federal Correctional Institute in Elkton, Ohio for conspiracy to distribute 150 grams or more of crack cocaine. Batista moves pursuant to 28 U.S.C. § 2241 (“Section 2241”) for an order directing the Federal Bureau of Prisons to consider his request for a twelve-month pre-release placement in a residential treatment facility. Because Batista is not confined in the District of New Jersey, this Court lacks jurisdiction over Batista’s Section 2241 petition. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (“Whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement.”); *see also Burkey v. Marberry*, 556 F.3d 142, 146 (3d Cir. 2009).

For the foregoing reasons and for good cause shown;

**IT IS** on this 19th day of February 2013, hereby,

**ORDERED** that Batista's Petition is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

/s/ William J. Martini  
**WILLIAM J. MARTINI, U.S.D.J.**